Chapter 22.10 Subdivision Improvements

22.10.010—22.10.030(d)
TITLE 22

SUBDIVISIONS

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22.10.010 Intent. The intent of this chapter is to specify regulations supplemental to the Kenai Peninsula Borough subdivision ordinance and to specify the improvements to be required for each subdivision, and exemptions to the requirements. (Ord. 87-8 (S) part), 1987).
22.10.020 Scope and authority. This chapter shall govern all subdivisions within the City of Homer under the authority of the Kenai Peninsula Borough Code, Chapter 20. (Ord. 87-8 (S) (part), 1987).

22.10.030 Definitions. The following words and phrases shall have the meanings set forth in this section, unless otherwise provided or the context otherwise requires:
a. “Non-Motorized Transportation and Trail Plan” means the Homer Non-Motorized Transportation and Trail Plan (2004), adopted as an element of the Homer Comprehensive Plan by HCC 21.02.010(b).
b. “Non-motorized transportation corridor” means an easement or right-of-way designated for public use for pedestrian, bicycle, equestrian or other non-motorized means of transportation.
c. “Public Access Corridor” means an easement or right of way allowing public access through a lot, subdivision or development.
d. "Subdivider" means a person, firm, association, partnership, corporation, governmental unit or combination of any of these which may hold any recorded or equitable ownership interest in land, and dividing or proposing to divide such land so as to

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constitute a subdivision as defined in this section. This term shall also include all heirs, assigns or successors in interest, or representatives of, the subdivider, owner, proprietor or developer.
e. "Subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, including resubdivision. Any addition, deletion or relocation of the boundary of a tract or parcel of land shown on a recorded plat is a subdivision. When appropriate to the context, the term shall refer to the process of subdividing or to the land or areas subdivided. (Ord. 10-57 §7 (part, 2011; Ord. 87-8 (S) (part), 1987).

22.10.040 Applicable and exempted subdivisions. The standards of this chapter shall apply to all subdivisions in the City of Homer. Exemptions from the requirements of Chapter 22.10 of this Code may be granted concurrent

with preliminary plat approval by the Homer Advisory Planning Commission under the following conditions:
a. Resubdivision of existing subdivisions not to exceed three lots, and involving no new dedications of rights-of-way;
b. Special conditions and circumstances exist which are peculiar to the property involved, and are not generally applicable to other properties in the City. These special conditions cannot be caused by the actions of the applicant;
c. Financial hardship or inconvenience shall not be considered grounds for granting exception;
d. Previous exceptions shall not be considered grounds for granting exception. (Ord. 87-8 (S) (part), 1987).

22.10.050 Improvement requirements General.
a. The Kenai Peninsula Borough shall not release any final plat for a subdivision in the city for filing at the State Recorder's Office until the subdivider or developer of the subdivision either enters a subdivision agreement for, or constructs and obtains written city approval of, the following improvements, according to the standards and procedures required under Title 11 of this Code:
1. Streets in all rights-of-way dedicated by the plat; and,
2. All other utilities and public improvements to be constructed in the rights-of-way and easements dedicated by the plat, including water, sewer, electric, communications, and gas lines, as applicable.
3. Abandonment or relocation of existing water or sewer service lines required due to conflict with new or relocated property lines, as required by the Public Works Department.
b. The commission may exempt a plat from the provisions of subsection (a) of this section as provided in Section 22.10.040.

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c. The subdivider shall be required to dedicate street rights-of-way according to the standards and specifications of Chapter 11.04 of this Code and the City of Homer Design Criteria Manual. Beyond a minimum of sixty feet, the subdivider may agree to a note attached to said subdivision plat providing sufficient setback to allow future expansion of the right-of-way without removal of improvements. Horizontal alignments are subject to City review; the City may require realignment of streets on proposed plats if the alignments do not conform to Chapter 11.04 and the Design Criteria Manual. Final plat approval shall thus be subject to the approval of horizontal alignments by the City Public Works Engineer.
d. All street and utility main improvements to be constructed as part of a subdivision improvement project shall be constructed according to the procedures of Chapter 11.20 of this Code. The City shall accept no such improvements unless a development agreement is executed prior to construction of such improvements.
e. All streets constructed as part of a subdivision improvement project shall be monumented according to the procedures of Chapter 11.20 (Section 11.20.090 (d) of this Code. (Ord. 10-57 §8 & 9, 2011; Ord. 87-8 (S) (part), 1987).

22.10.051 Easements and rights-of-way. a. The subdivider shall dedicate in each lot of a new subdivision a fifteen (15) foot wide utility easement immediately adjacent to the entire length of the boundary between the lot and each existing or proposed street right-of-way.
b. The subdivider shall dedicate in each lot of a new subdivision any water and/or sewer easements that are needed for future water and sewer mains shown on the official Water/Sewer Master Plan approved by the council.
c. The subdivider shall dedicate easements or rights-of-way for sidewalks, bicycle paths or other non-motorized transportation facilities in areas identified as public access corridors in the Homer Non-Motorized Transportation and Trail Plan, other plans adopted by the city council, or as required by the Kenai Peninsula Borough Code.
d. The city council may accept the dedication of easements or rights-of-way for non-motorized transportation facilities that are not required by HCC 21.10.051(c), if the city council determines that accepting the dedication would be consistent with the adopted plans of the city. (Ord. 10-57 §10; Ord. 90-5, 1990.)
22.10.052 Notification of neighboring property owners. A copy of the preliminary plat shall be mailed to the owners of record on the Kenai Peninsula Borough Assessor's records of real property within five hundred feet of the periphery of the parcel affected by the proposed plat. (Ord. 93-1, 1993).

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22.10.055 Underground utilities.
a. All wire or cable facilities, including, but not limited to, electric power, telephone and telecommunications cables, providing permanent service in newly developed residential subdivisions shall be located underground throughout the subdivision at the expense of the subdivision developer. The subdivision developer is responsible for complying with the requirements of this section and shall make necessary arrangements, including financial arrangements, with the serving utility company or companies for the installation of such facilities. The subdivision developer shall provide appropriate easements or dedicated rights-of-way so as to provide access for all utilities and so as to cause minimum conflict between utilities. Developers of new commercial and industrial properties are encouraged to provide for the location of all utilities underground.
b. All existing overhead utility wire or cable facilities, including, but not limited to, electric power, telephone, and telecommunications cables which shall, April 14, 1987, be relocated and/or which receive major modifications, shall be placed underground unless the utility obtains an exception pursuant to the provisions of subparagraphs e. and f. of this section. Major modifications shall not include reconductoring, reinsulating or in-kind replacement. The provisions of this subparagraph shall apply equally to the abandonment of pole lines except that if one kind replacement. The provisions of this subparagraph shall apply equally to the abandonment of pole lines except that if one utility abandons a pole line another existing utility which shares that pole line may buy the pole line and continue to use the pole line for the acquiring utility's cable facilities.
c. After October 24, 2006, all extensions of utility wire or cable facilities including, but not limited to, electric power, telephone, and telecommunications cables for the purpose of providing such utility service to any land not served before that date by overhead cable facilities shall be installed only as provided by HCC Chapter 14.50.
d. Appurtenances such as transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessary to underground utilities may be placed above ground.
e. Exceptions to the requirement of this section that utility cable facilities be placed underground may be approved by City Manager or designee for good cause shown including, but not limited to, the following:
1. Plats which receive preliminary approval prior to adoption of the ordinance from which this section derives;
2. Facilities which must cross abnormally wet, swampy areas;
3. Facilities which must cross areas that are subject to abnormal frost heaving;
4. Facilities which must be placed in areas subject to abnormal drainage;
5. Facilities which must be placed in areas where the utility is unable to obtain necessary rights-of-way;

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6. Facilities providing temporary service not to exceed one year when frozen ground or other conditions make burial of such facilities an undue hardship on the utility;
7. Facilities which have to cross unplatted, or unrecorded, or undeveloped tracts of land;
8. Electric power lines having a line to line voltage greater than 35KV;
9. Electric power lines carrying more than one thousand KVA of electrical energy;
10. Future users of existing pole lines when the host utility is overhead; provided, however, the future user must agree to vacate the pole line when the host utility vacates the pole line.
f. Exceptions, other than those listed in subsection d of this section, to the requirements of this section may be granted by the City Council, after review and recommendation by the Planning Commission, upon making a finding that conditions exist which make underground placement of utilities unreasonable or impractical. (Ord. 06-50(S) §1 (part) 2006; Ord. 87-8 (S) (part), 1987).
22.10.060 Appeals. Any person or persons who are affected by an action or determination taken under this chapter, may appeal said action under the appeals procedure outlined in Chapter 21.93 of this Code. Appeals from any action by the City Council granting or denying an exception under subsections d and e of Section 22.10.055 denying an exception under subsections d and e of Section 22.10.055 shall be taken directly to the Superior Court for the State of Alaska, within thirty days from the date of such action. (Ord. 08-29, 2008; Ord. 87-8 (S) (part), 1987).

22.10.070 Violation Penalty. The violation of any provision contained in this chapter shall be punished under Section 1.16.010. (Ord. 87-8 (S) (part), 1987).

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[*] Editor's Note: The provisions of this chapter were originally enacted by Ordinances 85-15 and 96-39(S), which were repealed by Ordinance 87-8(S).

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